

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:06-CR-239

KENNETH JAMES JOHNSON,

Hon. Richard Alan Enslen

Defendant.

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**REPORT AND RECOMMENDATION**

Pursuant to W.D. Mich. LCrR 11.1 and upon a request of the district court, I conducted a felony plea hearing in this matter on March 26, 2007, after receiving the written consent of the defendant, the defendant's attorney, and the attorney for the government. These consents were also placed on the record in open court.

Defendant Kenneth James Johnson is charged in Counts 1, 5, 6, 7, 8 and 9 of a multi-count Indictment with distribution of crack cocaine, and conspiracy. On the basis of this record, I found that defendant was competent to enter pleas of guilty and that his pleas were knowledgeable and voluntary with a full understanding of each of the rights waived by the defendant, that the defendant fully understood the nature of the charges and the consequences of his pleas, and that the defendant's pleas had a sufficient basis in fact which contained all of the elements of the offenses charged.

There was no written plea agreement in this case, although the parties have agreed that no supplemental information will be filed against defendant if he pleads guilty and does not go to trial.

I accepted the pleas of guilty, subject to final acceptance of the pleas by the District Judge. I ordered the preparation of a presentence investigation report, and directed the clerk to procure a transcript of the plea hearing for review by the District Judge.

### **Recommendation**

Based upon the foregoing, I respectfully recommend that the defendant's pleas of guilty to Counts 1, 5, 6, 7, 8, and 9 of the Indictment be accepted, and that the court adjudicate the defendant guilty of those charges.

Dated: March 26, 2007

/s/ Hugh W. Brenneman, Jr.  
Hugh W. Brenneman, Jr.  
United States Magistrate Judge

### **NOTICE TO PARTIES**

You have the right to *de novo* review by the district judge of the foregoing findings. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than ten (10) days after the plea hearing. *See* W.D. Mich. LCrR 11.1(b). A failure to file timely objections may result in the waiver of any further right to seek appellate review of the plea-taking procedure. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Neuman v. Rivers*, 125 F.3d 315, 322-23 (6<sup>th</sup> Cir.), *cert. denied*, 522 U.S. 1030 (1997); *United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981).